

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

T. LEMKAU & ASSOC., LTD.,

:  
Case No. 3:12-mc-009

Plaintiff,

District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz

-vs-

SOWA TOOL & MACHINE CO., LTD.,

Defendant. :

---

---

**REPORT AND RECOMMENDATIONS**

---

---

This miscellaneous case was filed by Sowa Tool & Machine Co. to compel production of documents by non-party Wohlhaupter Corporation pursuant to subpoena duces tecum (Motion, Doc. No. 1). On May 1, 2012, the Magistrate Judge denied the Motion without prejudice to its renewal on certain conditions set forth in the Decision and Order (Doc. No. 9).

No further filings have occurred and the Magistrate Judge infers that the parties have settled their discovery dispute without further judicial intervention. It is therefore recommended that this miscellaneous action be dismissed as moot.

*s/ Michael R. Merz*  
United States Magistrate Judge

## **NOTICE REGARDING OBJECTIONS**

Pursuant to Fed.R.Civ.P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed.R.Civ.P. 6(e), this period is automatically extended to seventeen days because this Report is being served by one of the methods of service listed in Fed.R.Civ.P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See, United States v. Walters*, 638 F.2d 947 (6<sup>th</sup> Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).